



Minnesota Attorney General Opioid Settlements

HF 4265 (Olson)

Informational Hearing

Behavior Health Policy Division

March 30, 2022

Distributors + J&J Settlement

Terms and Structure

- Distributors / Johnson & Johnson settlements
 - Minnesota joined these settlements last summer
 - Cities and counties joined by January 2022
 - \$26 billion in total available settlement amount (assuming 100% national participation)
 - Distributors: \$21 billion over 18 years
 - Johnson & Johnson: \$5 billion over 10 years
- Minnesota's allocation is 1.297%
- Maximum payment for Minnesota: **\$300 million+**
 - Paid over 18 years
 - Designated for opioid abatement
- Funds distributed within each state according to state law or intrastate (“State-Local”) agreement
 - Default structure is 85% to state and 15% to local governments, but we reached an agreement with cities and counties to vary this allocation model

Distributors / J&J Incentive Structure and “Global Peace”

- States and subdivisions get more money if they deliver more peace (releases of liability)
- “Global Peace” means resolution of both:
 - Existing claims (*i.e.*, claims by litigating subdivisions)
 - Potential future claims (*i.e.*, claims by currently non-litigating subdivisions)
- Pathways to Peace
 - Contractual (*i.e.*, cities and counties sign on)
 - Legislative (*i.e.*, statutory claims bar)

How To Achieve These Goals

- Best way to maximize funds and make sure they go where they are needed was to work with all relevant parties in coming up with a plan, including:
 - League of Minnesota Cities
 - Coalition of Greater Minnesota Cities
 - Association of Minnesota Counties
 - Opioid Epidemic Response Advisory Council members
 - State agencies
 - Tribal representatives
 - Public health experts
 - Community providers
 - First responders
- Convened two separate workgroups: one with public health experts (expert advisory panel) and the other with local government officials (signers' table)

The Result: Minnesota State-Subdivision Memorandum of Agreement

- Allocation
 - Local Governments get 75% of funds directly
 - All 87 counties
 - Cities over 30,000, litigating cities, cities with public health departments
 - State fund is 25%
 - All spent on opioid abatement (prevention, treatment, etc.) overseen by the Opioid Epidemic Response Advisory Council
 - *75/25 split requires state law change
- Use of funds
 - Expert panel selected comprehensive list of future opioid abatement and remediation programs

Minnesota Local Government Participation

- The State-Local Agreement was finished in mid-December 2021, and counties and cities had until Jan. 26, 2022 to join
- As a result of this comprehensive process, Minnesota achieved broad sign-on to the MOA and the national settlements from our local governments
 - All 87 counties
 - All cities over 10,000
 - Nearly 50 cities under 10,000

Statutory Change from State-Local Agreement

- Linchpin of MN MOA is that AGO and local governments work together to ensure settlement funds flow directly to local governments (“legislative modification”)
 - This “legislative modification” requires that opioid settlement funds are no longer directly appropriated to counties through state opioid fund
 - If “legislative modification” is not achieved by 8/1/22, allocation is modified to 60% local governments, 40% state, and the state share is effectively reduced to 20%

Landmark Legislation: HF 400 (2019)

- In May 2019, the Minnesota Legislature passed an omnibus opioids bill (HF 400) that:
 - Required opioid manufacturers and distributors to pay increased opioid-related fees
 - Created special opioid fund for state litigation recoveries and state opioid fees
 - Created opioid advisory council to make grant recommendations

The Final Step: HF 4265

- House File 4265 is a necessary step to implement the State-Local Agreement by updating the HF 400 framework
- Three main items
 1. Releases settlement funds
 2. Amends statute to implement the 75/25 local-state allocation split
 3. Enacts a claims bar to maximize the amount of resources

HF 4265 Item 1: Unlock Opioid Settlement Funds

- **Issue:** Current law provides that opioid settlement funds recovered by the AGO “must be deposited in a separate account in the state treasury,” and are only transferred into the opiate epidemic response fund once the opioid-related Pharmacy Board fees are sunset. Minn. Stat. § 16A.151, subd. 2(f).
 - The opioid-related fees will sunset when the state “receives a total sum of \$250,000,000” from opioid-related cases, but cannot be repealed/reduced prior to July 1, 2024. Minn. Stat. § 256.043, subd. 4 (a), (c).
- **HF 4265 Solution:** Amends Minn. Stat. § 16A.151, subd. 2(g) to allow payments from these settlements to be transferred from the lockbox immediately into the opioid fund.

HF 4265 Item 2: Implement 75/25 Allocation

- **Issue:** Current law provides that 50% of the opioid fund (after initial appropriations) is distributed to county and tribal social service agencies for child protection services for families affected by addiction
 - A key term of the intrastate agreement is that this distribution be modified with regard to settlement funds
- **HF 4265 Solution:** Create new opioid settlement account in the Opiate Epidemic Response Fund that removes the 50% county share, allowing local governments to receive their settlement payments directly and ensuring that the vast majority of state settlement funds go directly to OERAC

HF 4265 Item 3: Claims Bar

- **Issue:** To get full payments, the distributor and J&J agreements require “global peace” – the resolution of ongoing lawsuits and the prevention of future lawsuits against the four companies.
- **HF 4265 Solution:** The claims bar complements the broad sign-on the AGO has obtained, and ensures that Minnesota receives maximum payments, eliminating the risk of reduced/delayed payments from a future lawsuit.
 - Narrow scope

What Happens if Legislation Does Not Pass?

- Carefully negotiated MN MOA cannot be fully implemented
- Receipt of payments is delayed
- Settlement funds are inaccessible until 2024 (at the earliest)
- Minnesota loses out on millions of dollars in settlement funds
- Decrease in funding to OERAC
- Counties lose the benefit of direct payments
- Cities suffer a disproportionate decrease to their share of settlement payments

Questions?

- Minnesota Attorney General
 - Website: www.ag.state.mn.us/opioids
 - Includes national settlement documents, full state-local agreement, FAQs, summaries, etc.
 - Email: opioids@ag.state.mn.us
 - Telephone: (612) 429-7126
- www.nationalopioidsettlement.com